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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,317	08/23/2006	Hakan Bergkvist	P71432US0	8138
136 7590 11/12/2008 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			EXAMINER LEE, GILBERT Y	
			ART UNIT 3673	PAPER NUMBER
			MAIL DATE 11/12/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,317	Applicant(s) BERGKVIST, HAKAN	
	Examiner GILBERT Y. LEE	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 March 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 3', 31', 102, 103, 104. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

Art Unit: 3673

number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. The drawings are incomplete because it is missing Fig. 8 as stated on page 4, line 25 of the specification.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “16” has been used to designate both draw element and drawbar. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

Art Unit: 3673

any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “17” has been used to designate both draw element and drawbar. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The abstract of the disclosure is objected to because the element characters should be removed. Correction is required. See MPEP § 608.01(b).

6. The disclosure is objected to because of the following informalities: the specification is missing the proper headings; the claim references on page 1, lines 4, 21, and 23 must be amended to recite the language or be deleted; “7” on page 3, line

Art Unit: 3673

14 must be changed to --11--; and all references to "tube 13" must be amended to --leg 13--.

Appropriate correction is required.

7. Claim 1 is objected to because of the following informalities: "an appurtenant attachment" must be changed to -- a leg--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the nearby branch ends" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 1, line 11 recites "an appurtenant attachment (12)" and recites "one leg attachment (12)" in lines 15-16. It seems as though the two are referencing the same element. For the purposes of this examination, the examiner is interpreting "one leg attachment" to be --one appurtenant attachment--.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent

Art Unit: 3673

protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 5 recites the broad recitation an angle of 5-25°, and the claim also recites preferably approx. 15° which is the narrower statement of the range/limitation.

Claim 10 recites the limitation "a support leg" in line 3; however, "legs" is already claimed in claim 1, line 2. It is unclear as to whether there is a fifth leg or a second leg is attached to each corner of the frame.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3673

9. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergkvist (WIPO Pub. No. WO 92/02161) in view of Fong et al. (US Patent No. 5,581,827) and Thayer (US Patent No. 2,646,577).

Regarding claim 1, the Bergkvist reference discloses a child's bed (Fig. 1) comprising a ring-shaped frame (Fig. 5) and legs (21) connected to the frame (e.g. Fig. 1), as well as a sack (including 11,12,13) of flexible material mounted on the frame, which sack has the opening verge part thereof connected to the frame (Fig. 1), the frame comprising two mutually mounted frame parts (Fig. 5), the nearby branch ends of which are mutually connected to fittings (Fig. 6), including the frame being provided with one leg attachment for each leg (Fig. 5).

However, the Bergkvist reference fails to explicitly disclose the frame comprising turnably mounted frame parts connected to fittings which allow the frame parts to be folded between a first end position substantially in a common plane, and a second end position in which the frame parts are parallel and overlapping, and each leg being foldable connected to an appurtenant attachment of the frame, for foldability between a first end position supporting the frame, and a second end position, in which the legs are folded back substantially parallel to the plane of the frame parts, characterized in that the frame is provided with one leg attachment for each leg, the leg attachment having a conical shape and a leg end connecting thereto having a corresponding conical complementary surface, and that spring members are provided in order to axially pull together the end of the leg and the leg attachment into connection with each other.

The Fong et al. (hereinafter "Fong") reference, a child's bed, discloses the use of a frame lock (19).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide joints between side rails 31 and 32 of the Bergkvist reference in view of the teachings of the Fong reference in order to allow foldability to the bed and reduce the chances of misplacing parts during assembly and disassembly of the bed. The modified Bergkvist reference discloses the frame parts being folded between a first end position substantially in a common plane (e.g. Fong, Fig. 1), and a second end position in which the frame parts are parallel and overlapping (e.g. the side rails of Bergkvist will have to fold downwards when modified with the joints of Fong),

The Thayer reference, a sleeping apparatus, discloses the folding of tubular members of a sleeping apparatus (e.g. Fig. 2) through an attachment of the frame (Fig. 2), for foldability between a first end position supporting the frame (e.g. Fig. 1), and a second end position (e.g. Fig. 2), in which the legs are folded back substantially parallel to the plane of the frame parts (e.g. Fig. 2), the attachment having a conical shape (e.g. end of element 56 closest to element 55) and an end connecting thereto having a corresponding conical complementary surface (e.g. Fig. 4), and that spring members (62) are provided in order to axially pull together the end of the leg and the leg attachment into connection with each other (e.g. Figs. 2 and 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the Bergkvist reference with the conical shape and the spring members in view of the teachings of the Thayer reference in order to minimize the

Art Unit: 3673

number of parts and to minimize the time and effort to assemble and disassemble the sleeping apparatus (Thayer, Col. 1, Lines 27-34).

Regarding claim 2, the Bergkvist reference, as modified in claim 1, discloses the sack being formed in order to, by a bottom (Bergkvist, 11), rest on a floor on which the legs of the erected child's beds rest, and that the bottom of the sack extends over an area that substantially corresponds to the area surrounded by the frame (Bergkvist, Fig. 2).

Regarding claim 3, the Bergkvist reference, as modified in claim 1, discloses a mattress (Bergkvist, 27) being provided and having a bottom area corresponding to the bottom of the sack and that a rigid bottom plate (e.g. Bergkvist, 17) is provided in order to be located between the mattress and the bottom (Bergkvist, Fig. 2) of the sack.

Regarding claim 4, the Bergkvist reference, as modified in claim 3, discloses the bottom plate having two parallel spaced-apart scoring lines (Bergkvist, Fig. 1), which are positioned in a longitudinally central area of the bottom plate and extend perpendicularly to the longitudinal direction of the bottom plate (Bergkvist, Fig. 1).

Regarding claim 5, the Bergkvist reference, as modified in claim 1 and as best understood, discloses the legs when being operatively connected to the frame converge toward a common point that is centrally positioned above the central part of the frame (Bergkvist, Fig. 1).

Regarding claim 6, the Bergkvist reference, as modified in claim 1, discloses the springs members being arranged to axially bias the leg against the attachment and that

Art Unit: 3673

the attachment (Thayer, Col. 5, Lines 12-50) and the leg are axially united by a central flexible element (Thayer, 59) coupled to the spring member.

Regarding claim 7, the Bergkvist reference, as modified in claim 1, discloses a conical sleeve (Bergkvist, 56) being fixed in the end of the tubular leg, that the sleeve, on the outer circumference thereof, has a recess (e.g. Bergkvist, recess of 56 which 58 is formed to), and that the wall of the tubular leg is deformed for engagement in the recess of the sleeve for axial locking of the sleeve in the leg (Bergkvist, Col. 5, Lines 19-25).

Regarding claim 8, the Bergkvist reference, as modified in claim 1, discloses the folding fittings of the frame being arranged to allow the frame parts to be folded against each other into a direction in which the leg attachment of the frame parts are facing each other (e.g. the side rails of Bergkvist will have to fold downwards when modified with the joints of Fong).

Regarding claim 9, the Bergkvist reference, as modified in claim 1, discloses the free ends of the legs being connected to an adjacent portion of the sack near the bottom wall thereof (Bergkvist, through element 26).

Regarding claim 10, the Bergkvist reference, as modified in claim 1 and as best understood, discloses the frame being rectangular (Bergkvist, Fig. 1) and that a support leg (e.g. Bergkvist, 21) is connected to the respective corner area of the frame.

Regarding claim 11, the Bergkvist reference, as modified in claim 1, discloses the spring loading exerted by the spring member between the leg and the attachment thereof being chosen to produce an automatic stable connection of the leg and the

Art Unit: 3673

attachment thereof when the direction of the leg approaches the direction of the attachment (Thayer, Col. 5, Lines 12-50).

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergkvist in view of Fong and Thayer as applied to claims 1-11 above, and further in view of Stewart, III et al. (US Patent No. 6,588,020).

Regarding claim 12, the Bergkvist reference, as modified in claim 1, discloses the mouth portion of the sack being folded over around the frame against the outside of the sack and being attached against the same along the respective frame piece, with the exception of the corner area of the frame (Bergkvist, Page 3, Lines 16-28) including the seams (15).

However, the modified Bergkvist reference fails to explicitly disclose zippers.

The Stewart, III et al. (hereinafter "Stewart") reference, a teaching for fastening, teaches that zippers and seams are interchangeable (Col. 4, Lines 9-11).

It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the seams of the modified Bergkvist reference with zippers in view of the teachings of the Stewart reference in order to allow the sack to be released and washed.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergkvist in view of Fong and Thayer as applied to claims 1-11 above, and further in view of Stranski et al. (US Patent No. 5,542,151).

Regarding claim 13, the modified Bergkvist reference discloses the invention substantially as claimed in claim 1, including the folding fitting comprising two mutually equal hinge elements (Fong, 19) which are turnably arranged around a common central pivot axis normal to the plane of the hinge elements (Fong, Fig. 1).

However, the modified Bergkvist reference fails to explicitly disclose the hinge elements being axially spring-loaded into parallel and surface-extended abutment against each other and that the hinge elements having an opening each arranged at a distance from the axis and extending in a circumferential direction, and a bulging from the plane thereof, adjacent to the opening, following in the direction of circumference, the two ends of the bulgings, which connect to the hinge-element opening, abutting against each other in the end position of the fitting, in which the frame parts are folded-out in a common plane.

The Stranski et al. (hereinafter "Stranski") reference, a joint for a playpen, discloses the hinge elements being axially spring-loaded (through element 90) into parallel and surface-extended abutment against each other and that the hinge elements having an opening (e.g. opening of 40 accepting element 60; and 140,142) from each arranged at a distance from the axis and extending in a circumferential direction (Figs. 1A and 1B), and a bulging (e.g. ribs of 40; and walls of 140,142) from the plane thereof, adjacent to the opening, following in the direction of circumference, the two ends of the bulgings, which connect to the hinge-element opening, abutting against each other in the end position of the fitting, in which the frame parts are folded-out in a common plane (Figs. 1A and 1B).

Art Unit: 3673

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a hinge element to the modified Bergkvist reference in view of the teachings of the Stranski reference in order to provide a joint that promotes child safety by making it harder for a child to unlock with a two step process (Stranski, Col. 1, Lines 15-17).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GILBERT Y. LEE whose telephone number is (571)272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 3673

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/Patricia L Engle/
Supervisory Patent Examiner, Art Unit 3673

/G. Y. L./
Examiner, Art Unit 3673